

**COMMITTEE ON LIMITED JURISDICTION COURTS  
MINUTES**

Wednesday, January 26, 2011  
10:00am to 2:45pm  
Conference Room 119 A/B  
State Courts Building  
1501 W. Washington  
Phoenix, AZ 85007

**MEMBERS PRESENT:**

Honorable Antonio F. Riojas  
Ms. Carla F. Boatner  
Mr. C. Daniel Carrion  
Ms. Faye Coakley  
Ms. Janet G. Cornell  
Honorable Timothy Dickerson  
Honorable Maria Felix  
Honorable Sam Goodman

Mr. Patrick Kotecki  
Honorable Dorothy Little  
Honorable Mary Anne Majestic  
Honorable Arthur Markham  
Ms. Marla Randall  
Ms. Lisa Royal  
Honorable J. Matias Tafoya  
Ms. Valerie A. Winters

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**MEMBERS ABSENT:**

Honorable Eric Jeffery

Honorable Jeffrey A. Klotz

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**PRESENTERS/GUESTS:**

Honorable Elizabeth Finn  
Ms. Julie Dybas  
Ms. Christi Weigand  
Mr. Jerry Landau  
Ms. Janet (Scheiderer) Johnson  
Mr. Dave Byers  
Mr. Jeff Schrade  
Ms. Patience Huntwork

Ms. Theresa Barrett  
Ms. Julie Bruno  
Ms. Cathy Clarich  
Mr. Stewart Bruner  
Ms. Jennifer Greene  
Mr. Patrick Scott  
Mr. David Reuben

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**STAFF:**

Mr. Mark Meltzer

Ms. Tama Reily

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**I. REGULAR BUSINESS**

**A. Welcome and Opening Remarks**

With a quorum present, the January 26, 2011, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order by Judge Antonio Riojas, Chair, at:10:05.

Judge Riojas announced the establishment of the new *Committee on Civil Rules of Procedure for Limited Jurisdiction Courts*, which will review rules of civil procedure and determine if amendments to existing rules are warranted, or if the creation of new civil rules of procedure for limited jurisdiction courts are needed. LJC members, Judges Dickerson and Felix, are on the new committee and will keep the LJC apprised of its progress.

#### **B. Approval of Minutes**

The draft minutes of the October 27, 2010, meeting of the LJC were presented for approval.

**MOTION:** To approve the October 27, 2010, LJC meeting minutes as presented. Motion seconded. Motion passed unanimously. LJC-11-001

### **II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS**

#### **A. Sanctions for Non-Compliance on Extreme DUI's**

Judge Elizabeth Finn, Presiding Judge, Glendale City Court, discussed her court's concerns regarding the extreme DUI statutes, and whether a judge can impose a term of suspended jail contingent upon completion of a substance abuse education program without placing the defendant on probation. She also raised the issue of defendants who are current on their fines when the probation period ends, but still carry a balance. She observed that if probation is extended in such cases, it subjects the defendant to additional sanctions. At this time, Judge Finn suggested a subcommittee be established to explore these issues.

Members considered the concerns raised and exchanged some of the ways their courts are handling extreme DUI cases. Several courts reported they are not experiencing the dilemma Judge Finn is describing. It was noted that there is disagreement among judges as to whether a problem actually exists in this area. After much discussion, members felt that without judicial consensus that the matter is problematic, a subcommittee or workgroup is probably unnecessary. The committee took no action on this issue.

#### **B. Collection Actions for Expired Probation Cases**

Ms. Janet Cornell, member and Scottsdale City Court Administrator, and Ms. Julie Dybas, Deputy Court Administrator, presented questions regarding what authority the court has to take collection actions on a case that has any kind of probation, expired or non-expired. Ms. Cornell commented that their inquiries of other limited jurisdiction courts on the matter revealed that these cases are handled in differing manners ranging from using criminal restitution orders, to suspending the balance at the end of probation, to sending the case to FARE. They requested clarification on what the appropriate action is in these cases and questioned whether a consistent practice should be in

place in the courts. To that end, they recommended a workgroup be convened to review the issue.

Committee discussion revealed that most courts are sending cases to FARE without failure to pay warrants. Ms. Janet (Scheiderer) Johnson, AOC Court Services Division (CSD) Director, commented that there are currently many probation cases in FARE. Furthermore, she stated that since the cases under consideration are essentially collection issues, it is appropriate to send them directly to FARE. Although the committee took no action on this issue, Ms. Cornell stated the information gained in this discussion alone was quite helpful.

**C. Rule Petitions Report** -*Item taken out of order*

Ms. Patience Huntwork provided a report on pending rule change petitions that may impact LJ courts. They will be considered by the court in late August or early September. The following rule petitions were highlighted:

ARIZONA RULES OF CIVIL PROCEDURE

R-10-0034: Service of Default Application

R-11-0009: Electronic Service

R-11-0011: Appellate Court Electronic Filing

ARIZONA RULES OF CRIMINAL PROCEDURE

R-10-0026: Appointment of Mental Health Experts

ARIZONA RULES OF EVIDENCE

R-10-0035: Conforming Arizona Rules to Federal Rules of Evidence

R-11-0001: UPL Exception for Authorized Agents of Community

R-11-0003: Preservation of Appellate Case Records.

R-11-0012: Statewide Electronic Filing

ARIZONA RULES OF FAMILY LAW PROCEDURE

R-10-0025: Orders of Protection for Animals

RULES OF PROCEDURE IN TRAFFIC CASES AND BOATING CASES

R-10-0027: Social Security Number on Traffic Ticket

Members can view the rule change petitions and comments, or add their own comments on the [Court Rules Forum webpage](#).

**D. Priority of Offender Payments Workgroup** -*Item taken out of order*

Ms. Janet (Scheiderer) Johnson, CSD Director, informed members of a workgroup being formed to rewrite the LJ Priority of Offender Payments Code. She explained the revisions are necessary due to factors such as automation changes. She stated the focus would be on clarifying language and simplifying programming for case management systems. This workgroup

is to be comprised of members of the limited jurisdiction court community, and interested LJC members were encouraged to participate on the workgroup. An '*interest form*' was provided in the meeting materials along with information on where to send completed forms. Members were advised to contact Jennifer Jones at [jjones2@courts.az.gov](mailto:jjones2@courts.az.gov) with any questions on the project.

**E. Defensive Driving Schools Subcommittee** –*Item taken out of order*

Judge Sam Goodman, LJC member and Chair to the LJC Defensive Driving Subcommittee, reported that amendments to ACJA § 7-205: Defensive Driving, previously presented to LJC in September 2010, were approved by the Arizona Judicial Council (AJC) in October 2010. During the next year the subcommittee plans to meet quarterly to review practical issues that arise. He requested that courts report any problems with defensive driving schools to the AOC so the subcommittee can be alerted to review the issue(s).

**F. Retirement Benefits**

Mr. Dave Byers, AOC Administrative Director and Chairman of the Arizona State Retirement System (ASRS), addressed the committee regarding concerns about legislative discussions to change public pension systems. Mr. Byers gave an overview of the four public pension systems in Arizona, focusing on the ASRS, and the public safety pension system under which the Elected Officials Retirement Plan (EORP) falls. He acknowledged that the public safety pension faces changes since it is not sustainable as it was originally set up. He provided information on the problem areas and where things can be improved. Further, he recounted some of the alternatives the legislature is considering. He reported on the ongoing discussions of stakeholders and encouraged members to come forward with their input as the legislature has expressed interest in hearing from all stakeholders.

**G. Legislative Update**

Mr. Jerry Landau, AOC Director of Government Affairs, introduced new legislative intern, Ms. Julianne Hill. He reported on the following legislation that would impact limited jurisdiction courts:

HB 2015: Justice Court jurisdiction; county parks

A proposed strike everything amendment will change the bill to extend the jurisdiction of justice of the peace courts to include county parks within 5 miles of the precinct boundary.

HB 2285: Inmate credit; imprisonment; fine reduction

A person committed for nonpayment of a fine may receive up to a \$60 allowance for each day of hard labor, increased from a maximum of \$10 per day.

HB 2368: Detention at home; counties, cities

Counties and municipalities are required, instead of allowed, to establish a prisoner work community restitution work and home detention program, and are authorized to enter into an agreement to use another county or municipality's program. Mr. Landau asked members to review this bill and provide him with their comments as to whether this legislation would be difficult for the courts to handle.

HB 2369: DUI; work release

The court is required, instead of allowed, to permit DUI defendants to continue employment or schooling during a jail sentence, unless the court finds good cause and places those findings on the record. Mr. Landau asked that members also review this bill and inform him of potential negative impact to the courts.

HB 2370: Photo enforcement; license suspension prohibited

Civil traffic violations detected by any photo enforcement system cannot be considered for the purpose of determining driver license suspension or revocation (previously, this prohibition applied to detections by the state photo enforcement system only).

HB 2371: DUI; ignition interlock device

A person convicted of a first offense of driving under the influence is no longer required to equip a motor vehicle with an ignition interlock device for 12 months.

HB 2439: Driver license requirements; violation; misdemeanor

Classifies driving without a valid driver license as a class 2 misdemeanor.

SB 1026: Aggravated DUI; sentencing

Applies the certified ignition interlock device requirement to a person convicted of any violation of Aggravated DUI.

SB 1027: Continuous alcohol monitoring program

Authorizes a city or a county to establish a continuous alcohol monitoring program, similar to a home detention program for persons convicted of DUI. Same requirements apply.

SB 1028: DUI; license suspension

Applies the implied consent law (§ 28-1321) and Administrative per se (§ 28-1385) to DUI drugs. It has been amended to read "excludes prescription drugs."

SB 1029: Restricted driver license; DUI

Permits online requests for implied consent and Administrative per se suspension hearings. Permits a person convicted of a second or subsequent violation of DUI or persons under 21 years old convicted of DUI to apply for a

CLD after 90 days of an implied consent suspension. A person convicted of DUI with a prior or Extreme DUI with a prior is eligible for a CLD after completing 45 days of the revocation period. Mr. Landau requested members review this bill for any issues that may concern the courts and to notify him if that is the case.

SB 1036: Jury duty; students; temporary excuse

Allows a judge or jury commissioner to excuse a person from jury service if the person attends a postsecondary education institution in another jurisdiction.

SB 1111: Handheld wireless communication devices; driving

Would make the civil penalty for use of a handheld wireless communication device while driving a motor vehicle \$100 for the first offense, \$250 for the second offense in addition to community service; and \$500 for the third offense in addition to community service. If the offender was involved in an accident and the cause of the accident is determined to be a result of the use of the device, the penalty is doubled.

SB 1200: Ignition interlock device; time requirements

Would reduce the time period that a person convicted of a DUI must use an ignition interlock device to 6 months if the person is a first time offender, voluntarily completes an alcohol or other drug education or treatment program provided by a facility approved by the Department of Health Services, and has maintained a functioning ignition interlock device for 6 consecutive months.

Mr. Landau reviewed a few other bills on the horizon including one initiated by prosecutors, which would expand the use of the criminal restitution order. Also, a bill from the Attorney General to allow a criminal restitution order at sentencing, and one from the County Attorneys to allow criminal restitution orders for probation absconders.

**H. Revisions to the ACJA §§ 1-108 and 1-302**

Mr. Jeff Schrade, AOC Education Services Division (ESD) Director, presented proposed revisions to ACJA § 1-108: Committee on Judicial Education and Training (COJET), which lays out the structure, purpose, and functions of COJET and its standing committees, as well as § 1-302: Education and Training, which defines education requirements and functions of the ESD. He briefed the committee on the history of the codes, their recent review of the codes, and subsequent recommendations for changes. He then detailed the recommendations, which primarily simplify some administrative processes related to tracking and compliance, consolidate language redundancies, and standardize committee requirements. Mr. Schrade stated the proposed revisions have been reviewed by ESD staff, COJET and all of the COJET committees, in addition to the AOC Executive Office and Legal Services. The

proposals are currently posted on the [ACJA Forum](#) and Mr. Schrade encouraged members to add their comments and suggestions prior to the February 18, 2011 deadline. The final proposals will be presented at the AJC March 2011 meeting.

In answer to member questions, Mr. Schrade stated that this year's judicial conference is scheduled for June 22 – 28, 2011, and will again fulfill the full year's COJET requirement. However, this is the case only if the conference is attended in its entirety. If only a portion of the conference is attended, then COJET credit will be awarded according to the number of hours attended, and any remaining balance, up to the full 16 hour requirement, must be made up.

**MOTION:** To approve proposed changes to ACJA § 1-108: Committee on Judicial Education and Training, and ACJA § 1-302: Education and Training, as presented. Motion seconded. Approved unanimously. LJC-11-002

#### **I. Guilty Pleas by Mail**

Judge Timothy Dickerson updated members on the status of the rule petition amending Rule 17.1(a), which was filed December 27, 2010, and discussed two potential issues that have arisen.

The first item relates to an existing Rule 8 of the Rules of Procedure for Traffic Cases and Boating Cases. This rule allows a person to plead guilty in writing to a criminal traffic offense. The issue is whether it should be a matter of concern that Rule 17.1(a) similarly allows guilty pleas in writing, however, it requires a great deal more information from the defendant, while Rule 8 is quite basic. After discussion, there was consensus among members that there should be no problem created by the mutual existence of the two rules.

**MOTION:** To retain amended Rule 17.1(a) of the Rules of Criminal Procedure as is. Motion seconded. Approved unanimously. LJC-11-003

The second item Judge Dickerson raised concerned whether there should be a consistent process for the courts to collect fines from defendants prior to the scheduled hearing date. Discussion revealed that although members agreed that courts could proceed in the manner they prefer, many advocated for including a cover letter with the plea form to defendant, explaining the need for payment prior to the scheduled court date.

#### **J. Electronic Signatures on Search Warrants**

Judges Dorothy Little and Sam Goodman addressed the committee regarding the acceptability and/or process of electronic signatures for search warrants.

Several members revealed the process is allowable and already in use by several courts. Members shared the procedures they follow for electronic signatures via telephone, fax, blackberry or other electronic devices. Member Dan Carrion indicated that the printed version of an electronically signed warrant becomes the actual record. There was no action taken on this item.

### **III. OTHER BUSINESS**

#### **A. Good of the Order/Call to the Public**

No public present.

#### **B. Next Meeting:**

Wednesday, May 11, 2011

10:00am to 3:00 pm

Conference Room 119 A/B

State Courts Building

Meeting was adjourned at 2:00 p.m.